

**Supreme Court rules that 'room charges' would fall within ambit of 'rent' under Sec. 194I even if it includes host of facilities and amenities:**

Now next time a corporate entity i.e. any person other than an individual or HUF, making payment to a hotel towards room occupancy, shall be required to be cautious as the Hon'ble Supreme Court rules that these payments attract TDS u/s. 194I, being payment of rent.

The court observed that even in general a host of facilities are provided by any standard hotel to its guests in addition to provision of room space, the whole bunch of services shall still fall within the purview of section 194I. This is specifically because the Explanation to section 194I gives an exhaustive definition of the word 'rent'. The words 'any payment' and 'any other arrangement' preceding the words 'agreement or arrangement' boost up the scope of latter to the widest.

The Court also held that the Explanation to section 194I is consistent with and not beyond its scope of section 194I. It envisages 'rent' as any payment for the use of land or building or machinery or plant or equipment or furniture or fittings. Merely because the room charges might also comprise charges for the facilities provided would not take it out of the ambit of 'rent' in terms of section 194I.

The Court also held that the said provisions are very much constitutionally valid even in so far as tour operators are concerned who make payments to hotels on behalf of foreign guests and that the classification as to individual guest being either Indian or foreigners does not make any difference as the reasonable classification is based on an intelligible differentia. The Court also upheld the validity of Circular No. 5 of 2002 dated 30-07-2002 which lends clarity to these provisions.

For complete text of the decision, refer **Apeejay Surendra Park Hotels Ltd. V. Union of India [(383 ITR 697)(SC)]**